

REMARKS

Based upon the Notice of "Amendments in a Revised Format Now Permitted" published by the USPTO on January 31, 2003 waiving the provisions of 37 CFR § 1.121(a), (b), (c) and (d), the present Amendment is submitted as being compliance therewith.

This Preliminary Amendment and the accompanying Continued Prosecution Application ("CPA") are being filed in response to the Office Action mailed December 18, 2002. A "Request For Extension Of Time" for extending the due date for responding to the Office Action by two months and the CPA are being filed together with this Preliminary Amendment. A Credit Card Payment Form (Form PTO-2038) authorizing payment of the fee for filing the CPA (\$750) and for the extension of time (\$410) is included with this Preliminary Amendment. Authorization is granted to charge any other fees, if necessary, for entry of this Preliminary Amendment to our Deposit Account No. 18-1644.

The Examiner has acknowledged applicant's claim for foreign priority based on application No. Hei 11-034955 and No. 2002-032393, both filed in Japan, and noted that certified copies of such applications have not yet been filed. A letter enclosing these priority documents is being mailed by mail certification concurrently with the filing of this Preliminary Amendment. Entry of the claim for priority is accordingly requested upon receipt of such documents.

Claims 1-18 are canceled in the present Amendment, as indicated above. Substitute claims 19-28, including independent claims 19 and 24, have accordingly been added in the present Amendment. No additional claim fee is believed to be necessary for added claims 19-

28. However, authorization is granted to charge our deposit account no. 18-1644 for any fees, if necessary, for entry of this Amendment.

In the Office Action, claims 1-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Thayer et al. (U.S. Patent No. 5,554,912) in view of Schug (U.S. Patent No. 6,339,429). Claims 13-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Thayer et al. reference in view of Tabata (U.S. Patent No. 5,781,165). Based upon the cancellation of claims 1-18 in the present Amendment, the rejections thereto are submitted as being moot. With respect to the newly added claims, insofar as the rejections may be applied thereto, these rejections are respectfully traversed and reconsideration is requested.

Newly added independent claims 19 and 24 are directed to a display apparatus and method, respectively, adapted to display a first image for a left eye and a second image for a right eye, comprising first and second detecting elements or steps for detecting a brightness around the left and right eyes, respectively, and first and second brightness adjusting units or steps for adjusting a brightness of the first and second images according to the brightness detected by the first and second detecting elements, respectively. The cited Thayer et al., Schug and Tabata references, either alone or in combination, fail to disclose or suggest the display apparatus or method, as claimed. Particularly, none of the references discloses a first detecting element adapted to detect a brightness around a left eye and a second detecting element adapted to detect a brightness around a right eye.

As noted by the Examiner, the Thayer et al. reference discloses a vehicle instrument display apparatus that displays an image that can be viewed by both the user's left and right

eyes, and includes a brightness control system that may change the brightness of the display based on the ambient light. However, such a display apparatus does not teach or suggest a first detecting element adapted to detect a brightness around a left eye and a second detecting element adapted to detect a brightness around a right eye. Particularly, ambient illumination sensor 28 in the brightness control system taught by Thayer et al. is a single unit which measures the "ambient light intensity within the passenger compartment of the vehicle" and cannot be equated to a first detecting element adapted to detect a brightness around a left eye and a second detecting element adapted to detect a brightness around a right eye, as claimed in the present invention. Neither the Schug patent nor the Tabata patent adds anything to change this conclusion.

Further, none of the cited references can thus teach or suggest a display apparatus or method comprising a first brightness adjusting unit or step for adjusting a brightness of the first image according to the brightness detected by the first detecting element and a second brightness adjusting unit or step for adjusting a brightness of the second image according to the brightness detected by the second detecting element, as claimed in the present invention.

Accordingly, the newly added independent claims are submitted as being patentable based upon the Thayer et al., Schug and Tabata references not disclosing or suggesting the claimed display apparatus and method within the meaning of Section 103.

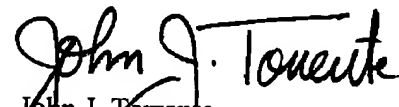
Based upon the patentability of independent claims 19 and 24, the newly added dependent claims are also submitted as being patentable since they differ in scope from the parent independent claims.

If the Examiner believes that an interview would expedite consideration of this Preliminary Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 682-9640.

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Respectfully submitted,

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